

Message Text

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PAGE 01 PARIS 31071 01 OF 02 271757Z

47

ACTION L-02

INFO OCT-01 EUR-12 ISO-00 EB-07 OIC-02 PRS-01 SS-15 SP-02

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R 271745Z DEC 74

FM AMEMBASSY PARIS

TO SECSTATE WASH DC 4896

UNCLAS SECTION 01 OF 02 PARIS 31071

E.O. 11652: N/A

TAGS: EGEN, FR

SUBJECT: SUMMARY OF SPEECH OF AMBASSADOR RUSH FOR
AMERICAN SOCIETY OF INTERNATIONAL LAW PROGRAM ON
MULTINATIONAL CORPORATIONS

REF: STATE 281122

1. THE FOLLOWING IS A SUMMARY OF THE DRAFT OF A SPEECH
TO BE GIVEN BY AMBASSADOR RUSH AT DINNER HELD AS PART
OF PROGRAM OF AMERICAN SOCIETY OF INTERNATIONAL LAW
PROGRAM ON MULTINATIONAL CORPORATIONS. THE DRAFT
HAS NOT YET BEEN APPROVED BY THE AMBASSADOR. FULL TEXT
WILL BE AIRPOUCHED.

WHILE TRANSNATIONAL DIRECT INVESTMENT HAS A LONG
HISTORY, THE "MULTINATIONAL CORPORATION" IS A MORE
RECENT TERM WHICH HAS BECOME CHARGED WITH EMOTION. THE
MNC IS A MENACE TO SOME, A PANACEA FOR WORLD UNITY TO
OTHERS. MY PURPOSE IS TO AVOID THESE EXTREMES,
AND EXAMINE THE MNC AS A SUBJECT OF IMPORTANT INTEREST
TO STATES.

STATES CANNOT IGNORE THE QUESTION OF DIRECT INVEST-
MENT. SENDING STATES, INCLUDING THE U.S., CAN RESTRICT
OUTWARD INVESTMENT FOR SUCH REASONS AS BALANCE OF PAY-
MENTS OR ANTI-TRUST LAWS. THEY CAN ALSO PROMOTE OR
ENHANCE INVESTMENT, IN LDC'S FOR EXAMPLE, THROUGH
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PAGE 02 PARIS 31071 01 OF 02 271757Z

INSURANCE PROGRAMS LIKE OPIC OR THROUGH COORDINATION

WITH DEVELOPMENT ASSISTANCE EFFORTS. RECEIVING STATES CAN CREATE FAVORABLE CONDITIONS FOR DIRECT INVESTMENT BY PRIVATE ENTERPRISE. EVEN STATE CONTROL OF CERTAIN BRANCHES, OR NATIONALIZATIONS, PROVIDED THEY ARE PROPERLY COMPENSATED, NEED NOT DETER FOREIGN INVESTMENT. OR RECEIVING COUNTRIES CAN FORBID INVESTMENTS OR EVEN CONFISCATE THEM. EVEN FOR THOSE COUNTRIES WHICH WELCOME SOME OR MOST FOREIGN INVESTMENT, QUESTIONS ARISE AS TO THE KIND OF INVESTMENT, AND THE RIGHTS AND OBLIGATIONS OF NATIONAL TREATMENT, FOR EXAMPLE. EFFORTS TO SOLVE THESE PROBLEMS "IN ADVANCE", THROUGH BILATERAL TREATIES OF ESTABLISHMENT, OR MULTILATERAL AGREEMENTS AS AMONG THE STATES OF THE EUROPEAN COMMUNITY, CAN ONLY BE PARTLY SUCCESSFUL.

EFFORTS TO DEVELOP CODES FOR INVESTMENT ON AN INTERNATIONAL LEVEL ARE MORE DIFFICULT. SOME, SUCH AS THE CODE OF THE INTERNATIONAL CHAMBER OF COMMERCE, CONTAIN A GOOD UNDERSTANDING OF THE BENEFITS OF TRANS-NATIONAL INVESTMENT, BUT REMAIN JUST RECOMMENDATIONS. WORK IN THE OECD OFFERS PROMISE. WE HOPE TO ESTABLISH GUIDELINES ON NATIONAL TREATMENT FOR FOREIGN-OWNED ENTERPRISES, AND ON SUCH QUESTIONS AS INCENTIVES AND TO INVESTMENT. WE ARE CONCERNED THAT THESE DO NOT DISTORT NATIONAL PATTERNS OF TRADE OR INVESTMENT. THESE DISCUSSIONS ARE SLOW AND DIFFICULT, EVEN THOUGH PARTICIPANTS ARE ALL INDUSTRIALIZED COUNTRIES BUT WE ARE ON THE RIGHT TRACK.

AGREEMENT ON INVESTMENT QUESTIONS ON AN EVEN LARGER SCALE IS YET MORE DIFFICULT TO OBTAIN. DEVELOPING COUNTRIES TEND TO BE MORE JEALOUS OF THEIR NEWLY-WON SOVEREIGNTY. THEY SEE INVESTMENT NOT AS AN OPPORTUNITY, BUT "THE MULTINATIONAL CORPORATION" AS AN OBJECT OF NATIONAL CONCERN AND CONTROL.

ONE REFLECTION OF THIS ATTITUDE CAN BE SEEN IN A REPORT ON "THE IMPACT OF MULTINATIONAL CORPORATIONS ON THE DEVELOPMENT PROCESS AND ON INTERNATIONAL RELATIONS", PREPARED FOR THE UNITED NATIONS ECONOMIC AND UNCLASSIFIED

UNCLASSIFIED

PAGE 03 PARIS 31071 01 OF 02 271757Z

SOCIAL COUNCIL BY A GROUP OF EMINENT PERSONS FROM MANY MEMBER STATES. ALTHOUGH WE SUPPORTED THIS EFFORT, WE ARE DISAPPOINTED IN ITS OUTCOME. THE TONE IS NEGATIVE, EMPHASIZING RESTRICTIONS ON INVESTMENT, AND NOT ITS BENEFITS. THE REPORT STRESSES INVESTMENT AS AN AID TO DEVELOPMENT, BUT SEEMS TO IGNORE THE NEED FOR A REASONABLE RETURN TO INVESTORS. THE REPORT IS NOW UNDER STUDY. WE HOPE TO INFLUENCE THE DECISIONS

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PAGE 01 PARIS 31071 02 OF 02 271755Z

47

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UNCLAS SECTION 02 OF 02 PARIS 31071

TAKEN AT ECOSOC IN A POSITIVE SENSE, BUT RECENT TRENDS
AT THE UNITED NATIONS SEEM TO BE IN THE OPPOSITE DIREC-
TION.

THE RECENT VOTE, BY A MASSIVE MAJORITY OF NATIONS
IN THE GENERAL ASSEMBLY, FOR A "CHARTER OF THE ECONOMIC
RIGHTS AND DUTIES OF STATES" REPRESENTS AN EFFORT TO
WRITE NEW INTERNATIONAL LAW IN A SENSE HOSTILE TO PRIVATE
INVESTMENT. MANY STATES ARE TORN BETWEEN A FELT NEED
FOR INVESTMENT, AND THE FEELING OF POWER DERIVED FROM
BELONGING TO A NEW MAJORITY HOSTILE TO IT. POTENTIAL
INVESTORS CANNOT BUT BE SKEPTICAL OF THE CLIMATE
PREVAILING IN COUNTRIES SUBSCRIBING TO THIS CHARTER,
WHICH CONFERS THE RIGHT OF UNILATERAL AND ARBITRARY
ACTION AGAINST FOREIGN INVESTORS, BUT IS SHORT ON THE
DUTY TO OBSERVE AGREEMENTS. THIS LOPSIDED VIEW OF
INTERNATIONAL ECONOMIC RELATIONS IS ONE REASON WHY WE
VOTED AGAINST THE CHARTER.

WE DO NOT BELIEVE, HOWEVER, THAT THE EMOTIONAL
VIEW OF PRIVATE INVESTMENT WILL PREVAIL ON ALL DEVELOPING
COUNTRIES' DECISIONS ON PRIVATE INVESTMENT. JUST AS
INVESTORS FOLLOWING THEIR OWN INTERESTS CANNOT IGNORE
THE POLICIES OF STATES, SO STATES FOLLOWING THEIRS CAN-

NOT IGNORE THE BENEFITS OF INVESTMENT. THE U.S. CANNOT
JOIN IN VOTES LEADING ONLY TO OBSTRUCTION. ON THE OTHER
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PAGE 02 PARIS 31071 02 OF 02 271755Z

HAND, WE HAVE CONSISTENTLY FAVORED INTERNATIONAL EFFORTS
AT ENHANCING COLLABORATION BETWEEN GOVERNMENTS AND
INVESTORS.
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